

Notice of Allowability**Application No.**

09/847,809

Examiner

Karen Cochrane Carlson, Ph.D.

Applicant(s)

BANDMAN ET AL.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief filed Feb. 9, 2004.
2. ☒ The allowed claim(s) is/are 10,30,31,33 and 35-44.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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This Notice of Allowance is in response to the Appeal Brief filed February 9, 2004.

Claims 1-9, 11-28, and 45-48 have been canceled. Claims 35, 38, 43, and 44 have been rejoined. Claims 29, 32, and 34 continue to be withdrawn from further consideration by the Examiner because these claims are drawn to non-elected inventions.

After entry of the Examiner's Amendment as set forth below, Claims 10, 30, 31, 33, and 35-44 are allowed.

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jim Verna on April 6, 2004.

Examiner's Amendments to the Claims:

10. (twice amended) An isolated antibody which specifically binds to [a polypeptide comprising] the amino acid sequence of SEQ ID NO: 3.

Cancel Claims 29, 32, and 34.

Examiner's Amendments to the Specification:

At page 1, line 2 of the specification, please insert ---- now U.S. Patent No. 6,235,477, --- between "1999," and "which".

The following is an **Examiner's Statement of Reasons for Allowance**: The prior art of record does not teach or suggest antibodies that specifically bind to SEQ ID NO: 3. Therefore, the claims are allowable over the art of record.

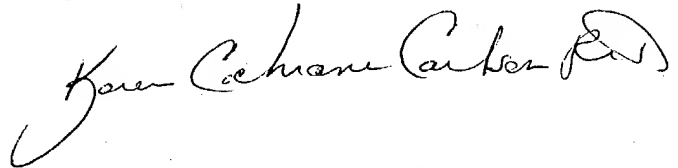
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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Karen Cochrane Carlson, Ph.D. whose telephone number is (703) 308-0034. The Examiner can normally be reached daily except alternate Fridays from 7:30 A.M. to 5:00 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Christopher Low, can be reached at (703) 308-2329. The OFFICIAL fax phone number for Technology Center 1600 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

A handwritten signature in cursive script that reads "Karen Cochrane Carlson Ph.D." with a stylized flourish at the end.

KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER